

REQUEST FOR COMMISSION ACTION

OG-08-12-988

BCC Hearing: December 22, 2008 @ 9:00 a.m.
Request: To approve the **Nighthawk Meadows Major Subdivision**

I. Action Requested

This is a request from Mountain Magic, LLC, represented by Professional Consultants, Inc., to approve the Nighthawk Meadows Major Subdivision.

II. Subdivision Proposal

- The Nighthawk Meadows Subdivision is a 6-lot major subdivision of 20.06 acres located west of Hamilton.
- The applicant is proposing cash-in-lieu of parkland dedication.

III. Planning Staff Recommendation

Planning Staff recommends conditional approval of the subdivision. (See attached Staff Report.)

IV. Planning Board Recommendations

The Ravalli County Planning Board conducted a public meeting on this subdivision proposal on November 5, 2008. The Board reviewed the six subdivision criteria, as summarized below:

1. **Effects on Agriculture.** *Nine Board members found the effects sufficiently mitigated. (Staff note: This is in agreement with the Staff Report findings.)*
2. **Effects on Agricultural Water-user Facilities.** *Eight Board members found the effects sufficiently mitigated and one Board member abstained. (Staff note: This is in agreement with the Staff Report findings.)*
3. **Effects on Local Services.** *Two Board members found the effects sufficiently mitigated and seven Board members found the effects to be not sufficiently mitigated.*
4. **Effects on the Natural Environment.** *Three Board members found the effects sufficiently mitigated and six Board members found the effects to be not sufficiently mitigated.*
5. **Effects on Wildlife and Wildlife Habitat.** *Seven Board members found the effects were sufficiently mitigated and two Board members found the effects were not sufficiently mitigated. (Staff note: This is in agreement with the Staff Report findings.)*
6. **Effects on Public Health and Safety.** *Three Board members found the effects sufficiently mitigated and six Board members found the effects were not sufficiently mitigated.*

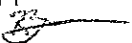
After voting on the six review criteria, the following motion was made by the Board:

To **approve** the Nighthawk Meadows Major Subdivision based on the findings of fact and conclusions of law in the staff report with the following amendments:

- Amending Condition 5 to state: The applicant shall submit a \$500-per-lot voluntary contribution to the Hamilton Rural Fire District at first conveyance of all lots.
- Amending Condition 9 to state: The applicant shall submit a \$500-per-lot voluntary contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, OEM) at first conveyance of all lots.
- Amending Condition 11 to state: The applicant shall submit a letter or receipt from the Hamilton School District stating that they have received a \$500-per-lot voluntary contribution at first conveyance of all lots.
- Amending Condition 15 to state: The applicant shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of Nighthawk Lane and Tail Feather Lane. The applicant shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicant shall complete the improvements prior to final plat approval.
- Removing Condition 16: A five-foot wide, ADA compliant, trail shall be constructed within the 60-foot wide easement along Tail Feather Lane. The trail shall be shown on the final plat within the easement of Tail Feather Lane beginning at the cul-de-sac of Tail Feather Lane and ending at the possible bus shelter near Nighthawk Lane. The trail shall be constructed prior to final plat approval.
- Adding Condition 18: The applicant shall submit a letter or receipt from Marcus Daly Memorial Hospital EMS Department stating that they have received a \$250-per-lot voluntary contribution at first conveyance of all lots.
- Adding Condition 19: The following statement shall be shown on the final plat: "Lots may require surface water engineering and potential hazard mitigation prior to construction".

The Board voted 8 –1 to approve this motion.

Please see the attached DRAFT Planning Board December 3, 2008 Meeting Minutes for details. A digital recording of the meeting is available.

Attachments:	Staff Report DRAFT Planning Board Meeting Minutes – December 3, 2008 Subdivision Application
Staff:	Randy Fifrick 
Date:	December 8, 2008

Ravalli County Planning Board
Meeting Minutes for December 3, 2008
7:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Public Meeting
Nighthawk Meadows (Mountain Magic, LLC) Major Subdivision
Country Life Estates II (Schallenberger) Major Subdivision

This is a summary of the meeting, not a verbatim transcript. A CD of the meeting may be purchased from the Planning Department for \$5.00.

1. Call to order

Lee called the meeting to order at 7:01 p.m.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Mary Lee Bailey (present)
Dale Brown (present)
John Carbin (present)
Jim Dawson (present)
Ben Hillicoss (present)
Dan Huls (present)
JR Iman (absent - excused)
Lee Kierig (present)
Chip Pigman (present)
Les Rutledge (present)
Jan Wisniewski (absent - excused)

Park Board Representative: Bob Cron (present)

(B) Staff

Randy Fifrick
Danielle High
John Lavey
Tristan Riddell
Jon Wickersham

3. Approval of Minutes

Lee asked if there were any corrections or additions to the minutes from November 19, 2008. There were none. The minutes were approved.

4. Amendments to the Agenda

There were none.

5. Correspondence

Tristan stated that the Planning Department had received a couple of correspondences and that the Board should have them in their files. (See Attachment B, Letter from Elizabeth Robbins, C, letter from Bob Cron D, letter from Victoria Hayes, and E, letter from Gerald Robbins and Howard Recht)

6. Disclosure of Possible/Perceived Conflicts

There were none.

7. Public Hearing

(A) Nighthawk Meadows Major Subdivision (Mountain Magic, LLC)

- (a) Staff Report on the Proposal: **Randy Fifrick** gave an overview of the proposal and stated Staff recommends conditional approval of the subdivision, subject to the conditions in the Staff Report. (See Attachment F, Nighthawk Meadows staff report.)

- (b) Presentation by Subdivider's Representative

John Kellogg from PCI gave an overview of where the property is located and what the surrounding area is like. He also went over each of the six criteria. He stated that there was a riparian area on the subject property and high ground water. He stated that a recommendation in the staff report requires construction of a bus shelter. He said that PCI talked to the School Superintendent and he said that construction of a bus shelter was not a priority because there would not be very many kids attending from this subdivision. John recommended that they keep that area as a public easement for future use.

- (c) Acceptance of public comments

Victoria Hayes, a neighbor of the subdivision, asked if the water table and the wetlands measurement were done before or after the ditch was dug on the west side of the property to control extra surface water. She said that the ditch has re-routed the water to run to Nighthawk Lane and to the neighbors near the road and across the road.

John Kellogg replied that it was measured after the ditch was dug and that the ditch will be maintained. He asked Duncan to explain.

Duncan Jakes with PCI stated that the ditch is only about a foot deep and was not a significant ditch. He said that it would not affect the water flowing to other property.

Les stated that he went out to the proposed site and the ground had a good amount of surface water. The ditch had at least an inch of water flowing in it.

Carol Grant stated that when they put that ditch in, it made it so that her front acreage is really wet, which it was not prior to the placement of the ditch. She said that the ditch is directing the water down to Nighthawk Lane and to her property.

Duncan stated that the land slopes towards Nighthawk Lane and that the excess surface water would be running toward that way anyway, which has nothing to do with the ditch.

(d) Board Deliberation and Recommendation

Lee amended the time allotted for each Board member to five minutes each.

Les stated that he has an issue with the property being so wet. He said that the fact that the ditch has running water in it is significant to how much surface water is out there.

Ben stated that the concern he has is the effect on wildlife.

Jim asked if each house will have its own septic tank.

Duncan replied that each house would have a pump and it would pump the waste up to a tank next to the drain field.

Mary Lee stated that her only concern is the amount of surface water on the property.

Chip stated that he had some issues with the covenants and the notifications. He said that he would like to see some enforcement.

Bob asked how steep the grade of the road was.

Duncan replied that it was 5%.

Bob said that he would like to see the walkway stay so that kids can travel to the bus stop safely. He said that with that steep of a grade, the ground would be slick and unstable.

John Carbin said that he thinks that groundwater is a concern. He stated that since there was no response from the Sheriff about the subdivision, no one thinks that there is a problem. He said that a couple years back, the Sheriff stated that he is understaffed and under funded. He said that this is a major concern.

Dan stated that he agreed with John about the Sheriff's Office being understaffed and under funded. He also said that there is a lot of surface water, which is a concern.

Lee said that he thinks that the ground is way too wet and that there is a concern with the public safety. He stated that the emergency medical services have crashed in the valley and that is a concern. He said that there is never mitigation offered to medical services. He asked if this development would be in harmony with the environment.

John Kellogg replied that he agreed that there is a lot of surface water on the land. He said along with the surface water, there are dry areas that are safe to build on.

Lee stated that one thing that everyone needs to think about is if the development will hold up in a couple of years because of the surface water. He asked if the current dry spots would stay dry in a couple of years.

(1) Review of Subdivision Proposal Against the Six Criteria

a. Effects on agriculture.

Nine thought that the mitigation was sufficient.

a. Effects on Agricultural water-user facilities.

Eight Members agreed that the mitigation was sufficient. One member did not vote.

b. Effects on local services

Two Members stated that the mitigation proposed was sufficient. Seven Members thought the mitigation was not sufficient.

c. Effects on the natural environment

Three Members agreed the mitigation was sufficient; six Members thought the mitigation was not sufficient.

d. Effects on wildlife and wildlife habitat, including fisheries and mammals.

Seven members said that the mitigation was sufficient; two members said that the mitigation was not sufficient.

e. Effects on public health and safety

Three Members said the mitigation was sufficient; six Members thought the mitigation was not sufficient.

(See Attachment G, Nighthawk Meadows Six Criteria Review Sheet)

Les recommended that there be a mitigation program for the high ground/surface water so that it could be routed away from the building sites.

Chip made a motion to approve the Nighthawk Meadows subdivision based on findings and facts of the staff report with the following conditions: Condition 5: On first conveyance, the applicant shall make a \$500 voluntary contribution to the Fire Department; Condition 9 : On first conveyance, the applicant shall make a \$500 voluntary contribution to the Ravalli County Treasurers office for Public Safety; Condition 11: On first conveyance, the applicant shall make a voluntary contribution of \$500 to the School District, and Condition 15: Rather than the applicant putting in a 32 square-foot bus shelter, the applicant shall work with the school district to determine if one is needed.

Jim seconded the motion.

Les stated that he thought that the Board had agreed that the five-foot trail would be better in a higher-density subdivision, not this one. He said with the way the motion stands, they are still going to be putting the trail in.

Chip stated that he would accept that as an amendment.

Lee suggested including some language describing that the buyers be aware of the surface ground water and that some engineering will be needed to keep the buildings safe from it.

Chip stated that he could add that language as Condition 18 and state that there shall be notification on the plat map that there may be a need for surface water engineering review and possible design.

Lee asked the developer if they would be willing to contribute a voluntary contribution to the Marcus Daly Ambulance Services.

Mick & Maggie Turner, the developers, said that they would be willing to offer \$250-per-lot to emergency services.

Randy suggested that maybe they restate the motion for the record with the new proposals in it.

Chip made a motion to approve the Nighthawk Meadows subdivision based on findings and facts of the staff report with the following conditions: Condition 5: On first conveyance, the applicant shall make a \$500 voluntary contribution to the Fire Department; Condition 9: On first conveyance, the applicant shall make a \$500 voluntary contribution to the Ravalli County Treasurer's office for Public Safety and adding on there that there be a voluntary contribution of \$250-per-lot to Ambulance Services; Condition 11: On first conveyance, the applicant shall make a voluntary contribution of \$500 to the School District; Condition 15: Rather than the applicant putting in a 32 square-foot bus shelter, the applicant shall work with the school district to determine if one is needed; Condition 16 should be removed, and Condition 18 shall have a notice on the plat that there may be a need for engineering review for ground/surface water on the subject land for future property owners.

Mary Lee seconded the motion.

A vote was called; the members voted (8-1) to approve the subdivision.
(See Attachment H, Nighthawk Meadows Vote Sheet)

(B) Country Life Estates II Major Subdivision (Schallenberger)

- (a) Staff Report on the Proposal: **Tristan Riddell** gave an overview of the proposal and stated Staff recommends conditional approval of the subdivision, subject to sixteen conditions in the Staff Report. (See Attachment I, Country Life Estates II Staff Report)

- (b) Presentation by Subdivider's Representative

Leonard Shepherd said that he agrees with everything in the staff report. He added that there was going to be a change in the location of the irrigation easement running east to west through proposed Lot 3. The easement would be relocated to the northern boundary of Lot 3 and would be enlarged to 20 feet.

- (c) Acceptance of public comments

Gerald Robbins said that he owns property on McCarthy Loop. He said that McCarthy Loop has a north and south access. He said that the south access is the one that is going to be used, but he stated that he knows that some of the future property owners will use the north access. He said that will cause

more traffic and will cause more upgrades to the road. He said that the road has been adjusted and that it is mis-located and not up to county standards. Widening it would change the irrigation ditch and power lines. He stated that this land is a hayfield and has a lot of wildlife population on it.

Glenda Kruger expressed her concern that if the subdivision is approved and later down the road it is determined that there needs to be another access to the property or the road needs to be widened it would take out her front yard and some of her property. She stated that there should be some sort of covenant to protect her land and other property owners from this happening.

Chad Devall stated that he owns property by the proposed subdivision and is concerned with the amount of traffic that will be on the road. He was also concerned with the wells and septic and wanted to ensure that there will be no problems in the future.

Bob Olsen stated that with traffic, they will not use the north side of McCarthy Loop because it is about eleven miles and would be pointless. He said that they would use the south access as proposed because it is shorter.

(d) Board Deliberation and Recommendation

John Carbin said that he was concerned about the lack of response of the Sheriff and that it is a major concern.

Chip stated that he does not agree with the concerns about the Sheriff. He said that if it was that major of a problem, the Board of County Commissioners would have addressed it. He stated that he does not understand why Condition 14 requires dust abatement when they are paying pro rata.

Tristan responded that the Road Department Supervisor recommended the dust abatement as mitigation to the increased traffic on McCarthy Loop following his review of the Traffic Impact Analysis.

Chip asked why there was a 20-foot paved surface required when the County's adopted AASHTO standards allow for a minimum of 18 feet.

Tristan replied that the Ravalli County Fire Council has requested that all internal roads be built with a minimum travel surface of 20 feet with one-foot shoulders so that they could safely get their fire equipment in and out in the case of an emergency. He further stated that Staff was including it as a Condition because of the concerns regarding public health & safety.

Mary Lee asked if there were going to be any covenants to restrict further subdivision of these lots.

Leonard Shepherd replied that it was up to the owners to decide if they wanted to limit future subdivision and that any future subdivisions would go through the subdivision process.

Lori Schallenberger replied that she is not going to put any further covenants on the property restricting further subdivision.

Ben asked if the subdividers would be willing to state what amounts they would be willing to contribute in mitigation for the voluntary contributions.

Shepherd replied that he would like to discuss that at the Commissioners' meeting.

Lori Schallenberger said that as mitigation to local services, they would voluntarily contribute \$500-per-lot to the School District, \$500-per-lot to the Fire District, and \$250 to Public Safety Services all at the time of first conveyance.

Jim made the motion to approve Country Life Estates II based on the finding and facts in the staff report and based on the following conditions that were modified: Condition 5, \$500-per-lot voluntary contribution at first conveyance to the Fire District, Condition 12, \$500-per-lot voluntary contribution at first conveyance to the School District, and Condition 7, \$250-per-lot voluntary contribution at first conveyance for Public Safety Services, remove the final sentence in Condition 13, and remove Condition 14 in its entirety.

Dale seconded the motion.

Chip made an amendment to the motion to remove Condition 16 in its entirety.

Jim agreed with Chips amendment stating that they need to stay consistent with the regulations.

A vote was called; the members voted (9-0) to approve the subdivision.
(See Attachment J, Country Life Estates II Vote Sheet)

8. Communications from Staff

John Lavey stated that there were members if the Board whose terms are up at the end of the month. He said that they need to turn in their applications by Friday, December 5, 2008.

9. Communications from Public

There was none.

10. Communications from The Board

There was none.

11. New Business

There was none.

12. Old Business

There was none.

13. Next Regularly Scheduled Meeting: December 17, 2008 at 7:00 p.m.

14. Adjournment

Lee adjourned the meeting at 9:28 p.m.

**NIGHTHAWK MEADOWS (MAGIC MOUNTAIN)
SIX-LOT MAJOR SUBDIVISION**

DRAFT STAFF REPORT FOR PLANNING BOARD

CASE PLANNER: Randy Fifrick

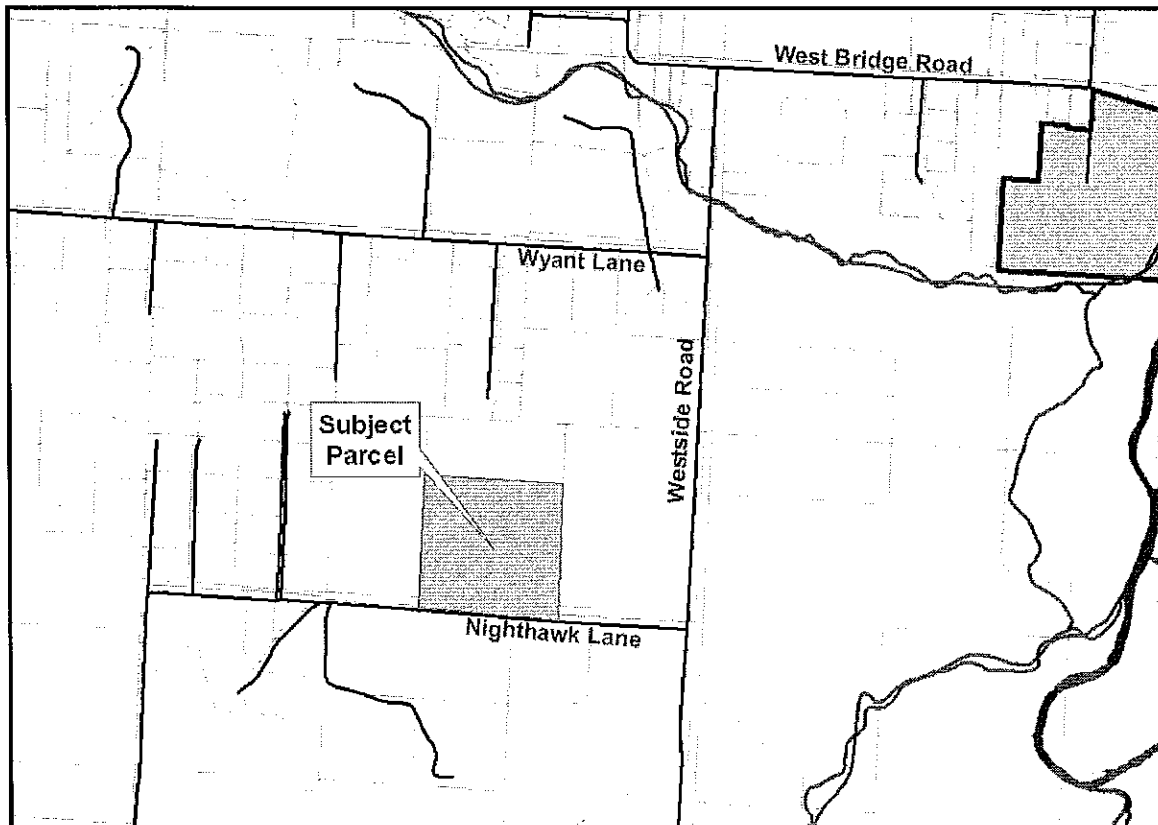
**REVIEWED/
APPROVED BY:** Tristan Riddell

**PUBLIC HEARINGS/
MEETINGS:** Planning Board Public Meeting: 7:00 p.m. December 3, 2008
BCC Public Hearing: 9:00 a.m. December 22, 2008
Deadline for BCC action (60 working days): January 30, 2009

APPLICANT/ OWNER: Mountain Magic, LLC
610 N 1st Street
Hamilton, MT 59840

REPRESENTATIVE: Professional Consultants, Inc.
1713 N. 1st Street
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located west of Hamilton off Nighthawk Lane. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Tract B of COS# 3971, located in Sections 34-35, T6N, R21W,
P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was deemed complete on October 30, 2008. Agencies were notified of the subdivision on July 22, 2008 and November 5, 2008. Comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-14 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on Tuesday, November 25, 2008. Notice of the project was posted on the property and adjacent property owners were notified by certified mail dated November 5, 2008. One written public comment has been received to date (Attachment A).

**DEVELOPMENT
PATTERN:**

Subject property	Vacant
North	Residential
South	Residential and Agricultural
East	Residential and Agricultural
West	Residential and Agricultural

INTRODUCTION

The Nighthawk Meadows Major Subdivision is a six-lot split proposed on 20.06 acres. The subject property is currently vacant, and is proposed for single-family dwellings. A wetland delineation was performed by the consultant. The identified wetlands have been labeled on the preliminary plat. The applicant is proposing individual wells and a community wastewater treatment facility to serve all lots.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

DECEMBER 22, 2008

NIGHTHAWK MEADOWS
SIX-LOT MAJOR SUBDIVISION

RECOMMENDED MOTION

That the Nighthawk Meadows Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. *(Staff Note: Prior to making a decision on the subdivision, the BCC must determine the appropriate parkland dedication.)*

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture)*

Notification of Irrigation Facilities and Easements. Within this subdivision there is an irrigation easement, as shown on the final plat. All downstream water users have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

Notification of Easement for Wastewater Treatment System. There is an easement for the community wastewater treatment system located on Lot 3, as shown on the final plat. Any act that interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(b)(v)(B), RCSR, Public Health and Safety)*

Notification of Water Rights. Lots within this subdivision do not currently have the right to take irrigation water out of the ditch located within the subdivision. Taking water without a water right for irrigation purposes is illegal. *(Section 3-2-8(b)(v), Effects on Agricultural Water User Facilities)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Nighthawk Lane frontage of this subdivision, excepting the approved approach to Tail Feather Lane. All lots within this subdivision must use the approved approach. Locations of the no-ingress/egress restrictions can be found on a reduced copy of the final plat. *[The applicant shall provide a reduced copy of the plat showing the no-ingress/egress zones.]* This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County

Commissioners. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*

Notification of Road Maintenance Agreement. The internal subdivision road, Tail Feather Lane, and the adjacent trail are not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for these roads was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

Notification of No-Build/Alteration Zones. Within this subdivision there are no-build/alteration zones, as shown on the final plat, to restrict building in areas with natural features such as wetlands and wetland vegetation. No new structure may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. Public road and utility easements, as shown on the preliminary plat, are not included in the no-build/alteration zones, nor shall the driveway access to Lot 6. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment and Wildlife & Wildlife Habitat)*

Notification of Very Limited Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as limited for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils in question are included as exhibits to this document *[the applicant shall include the reduced plat and exhibits as attachments]*. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety)*

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. *(Section 3-2-8(b)(v)(B), RCSR, Effects on the Natural Environment)*

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>. (*Section 3-2-8(b)(v), Effects on Agriculture, Effects on Natural Environment, & Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas, as well as a brochure for fence building with wildlife in mind.)
- c. All **garbage** should be stored in bear-resistant containers or indoors. If stored indoors, garbage may not be taken outdoors until the morning of garbage pick-up and containers must be brought back in that evening. Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash

storage sites. (If home sites are occupied seasonally, all garbage from the home and other buildings must be removed from the property before closing up for the season.)

- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)

- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.
- m. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

Covenants for use of Barley Creek and the southwestern riparian area portion of Nighthawk Meadows. Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and unrestricted livestock grazing--would help preserve the functionality of the creek and its riparian areas for fisheries, as well as protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. The goal of the "no build/alteration zone" in the southwestern portion of the subdivision is to protect the creek and the riparian areas, as well as fisheries and wildlife. The following covenants (restrictions) are designed to help avoid damage to creek and its riparian areas, as well as possibly enhancing the natural functioning of the area. (Section 3-2-8(b)(v), Effects on Natural Environment, & Wildlife and Wildlife Habitat)

The "No Build/Alteration Zones (NBAZ)" are depicted on the plat. These zones are protected by the following covenants (restrictions) to help avoid damage to Barley Creek, its riparian areas, and wetlands, as well as enhancing these areas:

- a) No building, no new roads or alteration of the NBAZ is allowed.
- b) No motorized use. Only foot traffic is allowed in the NBAZ.
- c) It is illegal to modify the streambed or streambanks of a perennial stream without a "310" permit (Montana Natural Streambed and Land Preservation Act). Certain other actions near Barley Creek may require state and/or federal permit(s). Contact the Ravalli County Conservation District office in Hamilton for further information.
- d) Keep livestock out of stream and NBAZ. Develop off-stream watering facilities (e.g., water troughs) for livestock, and use fences if necessary to keep livestock from trampling and grazing riparian vegetation. (See later covenant item for wildlife friendly fence guidelines.)
- e) Development of off-channel watering facilities cannot include water from Barley Creek if the lot(s) does not have valid water rights to the stream. If no water rights exist for, or have not been transferred to the property, then water cannot be diverted from the creek for any use. Residents should consult with the Montana Department of Natural Resources for questions on water rights.
- f) Wildlife-friendly fence guidelines. a) For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18" off the ground; top of the top rail no higher than 42" off the ground; b) For wire fences: use smooth wire, no more than 3 wires, top wire no higher than 42" off the ground and bottom wire at least 18" from the ground. These designs allow calf elk, fawn deer and other wildlife to crawl under the fencing, while allowing adult elk and deer to jump the fence.
- g) Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of habitat and contributes significantly to overall slope stability, and dead trees function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- h) Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- i) If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.

- j) In summary, allow riparian areas--Barley Creek and its NBAZ and the southwestern riparian area--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- k) These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture and Natural Environment*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The Ravalli County Fire Council, which includes the Hamilton Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

- 3. The applicant shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)
- 4. The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety*)
- 5. Prior to final plat approval, the applicant shall provide a letter from the Hamilton Rural Fire District stating that the applicants have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the applicant may provide evidence that a \$500 per newly created lot contribution has been submitted to the Hamilton Rural Fire District with the final plat submittal in lieu of the required

water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

6. The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Hamilton Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
7. The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Nighthawk Lane, except for the approved encroachment for the internal subdivision road, Tail Feather Lane. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
8. A stop sign and road name sign shall be installed at the intersection of Tail Feather Lane and Nighthawk Lane prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
9. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
10. The internal subdivision road shall be labeled as "public road and utility easement" on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
11. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Hamilton School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
12. The applicant shall provide evidence that mailboxes have been installed in accordance with the Hamilton Post Office's standards, and that the installation has been approved by the Hamilton Post Office prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services)*
13. The final plat shall show no-build/alteration zones on all areas of the preliminary plat labeled in the legend as proposed riparian area, no build/alteration buffer (NBNAB), or delineated wetland/seep. Public road and utility easements, as shown on the preliminary plat, shall not be included in the no-build/alteration zones, nor shall the driveway access to Lot 6 as shown on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*
14. The final plat shall show a no-build/alteration zone beginning 100 feet to southwest of Barley Creek and extending to the property boundary northeast of the creek. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*
15. The applicant shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of Nighthawk Lane and Tail Feather Lane. The applicant shall provide evidence that they have worked with the School District prior to final plat approval and any required

improvements meet the minimum standards as decided upon by the School District. If any improvements are required, the applicant shall complete the improvements prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

16. A five-foot wide, ADA compliant, trail shall be constructed within the 60-foot wide easement along Tail Feather Lane. The trail shall be shown on the final plat within the easement of Tail Feather Lane beginning at the cul-de-sac of Tail Feather Lane and ending at the possible bus shelter near Nighthawk Lane. The trail shall be constructed prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
17. The Road Maintenance Agreement for the internal subdivision road shall include a provision outlining the maintenance of the trail which begins at the cul-de-sac of Tail Feather Lane and ends at the possible bus shelter near Nighthawk Lane. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
18. The applicant shall finish the entire stretch of the easement on Lot 3 for the wastewater treatment system with topsoil and certified weed free grass seed prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on the Natural Environment and Public Health & Safety*)
19. Tail Feather Lane shall be constructed with a paved travel surface of 20 feet and a minimum of 1-foot shoulders, for a total width of 22 feet. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
20. The applicant shall construct the driveway for Lot 6, as shown on the preliminary plat, prior to final plat approval. The driveway must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
21. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on County General Services. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
22. The following statement shall be shown on the final plat: "Lots may require surface water engineering and potential hazard mitigation prior to construction". (*Section 3-2-8(b)(v), RCSR, Effects on Public Health & Safety*)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied shall be submitted with the final plat submittal.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) shall be submitted prior to final plat approval. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - a. Project name
 - b. Title block
 - c. Certificate of registered owner – notarized
 - d. Certificate of registered land surveyor with seal
 - e. Certificate of governing body approval
 - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g. Certificate of park cash-in-lieu payment
 - h. Other certifications as appropriate
 - i. North arrow
 - j. Graphic scale
 - k. Legal description
 - l. Property boundaries (bearings, lengths, curve data)
 - m. Pertinent section corners and subdivision corners
 - n. Names of adjoining subdivisions/certificates of survey
 - o. Monuments found
 - p. Witness monuments
 - q. Acreage of subject parcel
 - r. Curve data (radius, arc length, notation of non-tangent curves)
 - s. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - t. Lots and blocks designated by number (dimensions/acreage)
 - u. Easements/rights of ways (location, width, purpose, ownership)
 - v. No-build/alteration zones
 - w. No-ingress/egress zones
 - x. Water resources (rivers, ponds, etc.)
 - y. Irrigation canals including diversion point(s), etc.
 - z. Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.
7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.

11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication, shall be submitted with the final plat submittal.
13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
14. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
15. Engineering plans and specifications for all central sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.
16. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
17. Road certification(s) shall be submitted with the final plat submittal.
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. Road maintenance agreement, signed and notarized, shall be submitted with the final plat submittal.
20. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
 - a. Specific infrastructure improvements potential required for this subdivision are the installation of a stop sign and road name sign, installation of the CBU and concrete slab, construction of the internal subdivision road, installation of the wastewater treatment system, construction of the walking trail, construction of the bus shelter and turnout.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located along Nighthawk Lane. (Nighthawk Meadows Preliminary Plat)
2. A proposed 60-foot wide public road and utility easement along Tail Feather Lane will provide for additional utility easement. (Nighthawk Meadows Preliminary Plat)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*
4. *Tail Feather Lane shall be labeled as a "public road and utility easement" on the final plat. (Condition 10)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property gains legal and physical access from U.S. Highway 93, West Bridge Road, Westside Road, Nighthawk Lane, and Tail Feather Lane. (Nighthawk Meadows Subdivision File)
2. U.S. Highway 93 is a state operated roadway. (MDT)
3. West Bridge Road is listed as a county-maintained road. (RCSR)
4. Westside Road is listed as a county-maintained road. (RCSR)
5. Nighthawk Lane is listed as a county-maintained road. (RCSR)
6. The internal road, Tail Feather Lane will provide legal and physical access to all lots within the subdivision via a 60-foot wide public road and utility easement. (Nighthawk Meadows Preliminary Plat)
7. A Road Maintenance Agreement outlines what parties are responsible for maintaining Tail Feather Lane and under what conditions. (Nighthawk Meadows Subdivision File)
8. *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Nighthawk Lane. (Condition 7)*
9. *Tail feather Lane shall be labeled as a "public road and utility easement" on the final plat. (Condition 10)*

Conclusion of Law

Legal and physical access will be provided to all lots within the subdivision.

C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.

Finding of Fact

1. The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant prior to final plat approval (Final Plat Requirements 1 and 26).

2. Specific infrastructure improvements potentially required for this subdivision are the installation of a stop sign and road name sign, installation of the CBU and concrete slab, construction of the internal subdivision road, installation of the wastewater treatment system, construction of the walking trail, construction of the bus shelter and turnout.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. In an email dated August 25, 2008, Larry Schock of the DNRC Water Resources Division stated that because the average lot size is less than 5 acres, the water rights associated with the proposed subdivision are required to be addressed according to the Montana Code Annotated. (Exhibit A-1)
2. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the applicant is required to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
3. The average lot size for this proposal is approximately 3.34 acres. (Nighthawk Meadows Subdivision File)
4. The applicant is reserving all of the water rights and severing those rights from the land. (Nighthawk Meadows Subdivision File)
5. According the DNRC records, there are irrigation rights attached to this parcel from two sources: Canyon Creek and Sawdust Creek. (Nighthawk Meadows Subdivision File)
6. The subdivision has the following water rights: (Nighthawk Meadows Subdivision File)
 - (a) DNRC right 76H-107792-00, which is a stock water right from Sawdust Creek.
 - (b) DNRC right 76H-107793-00, which appropriates 342.55 gallons per minute (GPM) from Sawdust Creek.
 - (c) DNRC right 76H-107794-00, which appropriates 40 GPM from Canyon Creek.
7. After reviewing the DNRC abridged summaries and aerial photos for the water rights for this property, it appears that the property has a maximum of 20 historic irrigated acres. With a flow rate per acre of 7.45 GPM (Water Right No. 76H-107793-00) and 20 irrigated acres (7.45 GPM X 20 Acres) the maximum flow rate for this parcel is 149.00 GPM. (Bitterroot Research, Nighthawk Meadows Subdivision File)
8. At the present time, irrigation water from Canyon Creek (Water Right No. 76H-107794-00) has no functional conveyance system to the property. (Nighthawk Meadows Subdivision File)
9. *Condition 1 notifies individual lot owners that they have no water rights and taking water from the irrigation easement within the property is illegal.*

Conclusion of Law

With the requirements of final plat approval and the mitigating conditions of approval, this prerequisite has been met.

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the applicant is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The applicant is proposing a 20-foot wide irrigation easement centered on an existing collection ditch, which traverses Lots 3 and 6. (Nighthawk Meadows Subdivision File)
3. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
4. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The proposed 20-foot wide irrigation easement is required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. The application states that 0.55 acres are required to meet the parkland dedication requirement. (Nighthawk Meadows Subdivision File)
2. RCSR Section 6-1-5(a) requires a applicant to make a land donation to the County, make a cash donation to the County, reserve land within the development for the recreational uses for those within the development, and/or reserve land for one or more of the following purposes:
 - a. Protection of critical wildlife habitat;
 - b. Protection of cultural, historical, or natural resources;
 - c. Protection of agricultural lands; or
 - d. Protection of aesthetic values, including open space and scenic vistas
3. Pursuant to RCSR Section 6-1-5(a)(4)(b), the applicant is proposing to meet the parkland dedication requirement by making a cash donation to the County. (Nighthawk Meadows Subdivision File)

4. In a letter dated November 23, 2008, Bob Cron, representing the Ravalli County Park Board, stated that the Park Board concurs with the applicant's proposal to provide cash-in-lieu to meet their parkland obligation. (Exhibit A-9)
5. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the applicant and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the applicant, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCSR)
6. *If the BCC determines that cash-in-lieu is appropriate, the applicant will be required to hire an appraiser as outlined in Section 6-1-7. The BCC will determine whether or not the amount is acceptable (Final Plat Requirement 12)*

Conclusion of Law

The applicant has proposed parkland dedication that meets State Law.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Nighthawk Meadows Preliminary Plat)
2. This development plan proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Nighthawk Meadows Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision as outlined in Chapter 3 of the RCSR have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Clerk & Recorder's Office)
2. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Nighthawk Meadows Subdivision File)

Conclusion of Law

There are no zoning regulations that apply to the property.

C. Existing covenants and/or deed restrictions.

Finding of Fact

1. There are existing covenants on the property recorded as Document # 585005 with the Ravalli County Clerk & Recorder. (Nighthawk Meadows Subdivision File)
2. The covenants restrict parcel use to single family residential. (Document # 144322)

Conclusion of Law

The proposal appears to comply with existing covenants.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on January 24, 2008. (Nighthawk Meadows Subdivision File)
3. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 20.06 acres will result in six lots that range in size from 2.00 acres to 5.03 acres. The property is located approximately 2 miles west of the City of Hamilton off Nighthawk Lane. (Nighthawk Meadows Subdivision File)
2. The subject parcel is classified for tax purposes as residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. The property is adjacent to agricultural properties. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
4. The property has not been used for agricultural purposes for several years. (Nighthawk Meadows Subdivision File)
5. In a letter dated August 27, 2008, State Conservationist Dave White of the Natural Resource Conservation Service confirmed that the NRCS soils staff would no longer utilize the farmland of local importance soils classification, per the request of the Bitterroot Conservation District. (Exhibit A-2)
6. During a phone conversation on September 24, 2008, Julie Ralston of the Bitterroot Conservation District summarized the reasoning for eliminating the farmland of local importance soils classification. (Exhibit A-3)
7. The NRCS Web Soil Survey indicates that there are no prime farmlands or farmlands of statewide importance found on the property. (NRCS)
8. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed was found on the property. (Rivers Edge II Subdivision Application)

9. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
10. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the applicant is required to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
2. In an email dated August 25, 2008, Larry Schock of the DNRC Water Resources Division stated that because the average lot size is less than 5 acres, the water rights associated with the proposed subdivision be addressed according the Montana Code Annotated. (Exhibit A-1)
3. The average lot size for this proposal is approximately 3.34 acres. (Nighthawk Meadows Subdivision File)
4. The applicant is reserving all of the water rights and severing those rights from the land. (Nighthawk Meadows Subdivision File)
5. According the DNRC records, there are irrigation rights attached to this parcel from two sources: Canyon Creek and Sawdust Creek. (Nighthawk Meadows Subdivision File)
6. The subdivision has the following water rights: (Nighthawk Meadows Subdivision File)
 - (d) DNRC right 76H-107792-00, which is a stock water right from Sawdust Creek.
 - (e) DNRC right 76H-107793-00, which appropriates 342.55 gallons per minute (GPM) from Sawdust Creek.
 - (f) DNRC right 76H-107794-00, which appropriates 40 GPM from Canyon Creek.
7. After reviewing the DNRC abridged summaries and aerial photos for the water rights for this property, it appears that the property has a maximum of 20 historic irrigated acres. With a flow rate per acre of 7.45 GPM (Water Right No. 76H-107793-00) and 20 irrigated

acres (7.45 GPM X 20 Acres) the maximum flow rate for this parcel is 149.00 GPM. (Bitterroot Research, Nighthawk Meadows Subdivision File)

8. At the present time, irrigation water from Canyon Creek (Water Right No. 76H-107794-00) has no functional conveyance system to the property. (Nighthawk Meadows Subdivision File)
9. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the applicant is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
10. The applicant is proposing a 20-foot wide irrigation easement centered on an existing collection ditch, which traverses Lots 3 and 6. (Nighthawk Meadows Subdivision File)
11. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
12. An existing ditch which traverses the property and ends on Lot 2 will be obliterated as part of this project. There are no downstream water users which will be affected by this removal. (Nighthawk Meadows Subdivision File)
13. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The proposed 20-foot wide irrigation easement is required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
 - *A notification that lot owners do not have water rights and that taking water from the irrigation easement without a water right is illegal shall be included in the notification document. (Condition 1)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Hamilton Rural Fire District. (Nighthawk Meadows Subdivision File)
2. Notification letters were sent to the Hamilton Rural Fire District requesting comments on July 22, 2008 and November 5, 2008. (Nighthawk Meadows Subdivision File)
3. In a letter dated August 20, 2008, Lisa Wade, Secretary for the Hamilton Rural Fire District, stated that the Hamilton Rural Fire District and the City of Hamilton Fire chief had reviewed the subdivision proposal and recommended that the following mitigating measures are met: (Exhibit A-5)
 - a) All buildings should be built to IRBC code

- b) All roads leading to and within the subdivision should be paved and constructed to County standards without any variances since access to the subdivision is a concern.
4. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which address access, posting of addresses, and water supply requirements. (Exhibit A-6)
5. In a letter dated September 25, 2008, Ravalli County Fire Warden Ronald J. Ehli, on behalf of the Ravalli County Fire Council requested that all interior roadways for new development be constructed with a travel surface of 20 feet with a minimum of 1-foot shoulders, for a total width of 22 feet. (Exhibit A-14)
6. As shown on the preliminary plat, the proposed driveway for Lot 6 is approximately 200 feet in length. (Nighthawk Meadows Preliminary Plat)
7. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
- *Provisions in the covenants shall require that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *A provision in the covenants shall recommend that houses within the subdivision be built to IRBC standards. (Condition 2)*
 - *The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*
 - *Prior to final plat approval, the applicant shall provide a letter from the Hamilton Rural Fire District stating that the applicant have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the applicant may provide evidence that a \$500-per-new-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
 - *The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 6)*
 - *The applicant shall construct the driveway for Lot 6, as shown on the preliminary plat, prior to final plat approval. The driveway must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. (Condition 20)*

School District

8. The proposed subdivision is located within the Hamilton School District. (Nighthawk Meadows Subdivision File)
9. It is estimated that 3 school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per household. (Census 2000)
10. Notification letters were sent to the Hamilton School District requesting comments on July 22, 2008 and November 5, 2008. (Nighthawk Meadows Subdivision File)
11. In a letter received November 14, 2008, Mr. Phillip Santee, Superintendent for the Hamilton School District stated the following: (Exhibit A-13)
- a) The District will not provide transportation services to any student who does not live on county maintained roads and/or do not have an adequate bus turn around area.
 - b) The District would like the developer to insure that the children are provided with a safe area that is out of the weather to wait for the bus at the intersection of Nighthawk Lane and Tail Feather Lane.
 - c) The District has not conducted an impact fee study, but they would like the County to assess a mitigation fee that they feel is appropriate for this project.

12. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the budget per pupil would be \$6,619 for the Hamilton School District (Exhibit A-7)
13. The applicant is proposing a \$500 per lot contribution to the Hamilton School District at first conveyance of each lot. (Nighthawk Meadows Subdivision File)
14. The County School Superintendent, Ernie Jean, sent a letter to the Ravalli County Commissioners stating that the Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and turnout, or turnaround, if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-12)
15. *To mitigate impacts on the School District:*
 - *The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Hamilton School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 11)*
 - *The applicant shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of Nighthawk Lane and Tail Feather Lane. The applicant shall provide evidence that they have worked with the School District prior to final plat approval and any required improvements meet the minimum standards as decided upon by the School District. If any improvements are required, the applicant shall complete the improvements prior to final plat approval. (Condition 15)*

Public Safety

16. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Nighthawk Meadows Subdivision File)
17. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on July 22, 2008 and November 5, 2008, but no comments have been received from the Sheriff's Office. (Nighthawk Meadows Subdivision File)
18. This proposed subdivision is located approximately 3 miles from the Sheriff's dispatch in Hamilton. (Ravalli County GIS Data)
19. The average number of people per household in Ravalli County is 2.5. This subdivision is estimated to add 15 people to the County. (Census 2000)
20. Taxes from new residents may not be immediately available to law enforcement services, E-911, Office of Emergency Management (OEM) and Disaster & Emergency Services (DES). There is no available information on the average amount of time between when public safety services begin to serve a new residence and when public safety services receive tax money from that residence. (Staff Determination)
21. The applicant is proposing a \$500 per lot contribution to be paid into an account for Public Safety at first conveyance of each lot. (Nighthawk Meadows Subdivision File)
22. *The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 9)*

Roads

23. There are six proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 48 vehicular trips per day, assuming eight trips per day per lot. (Nighthawk Meadows Subdivision File)
24. The subject property gains legal and physical access from U.S. Highway 93, West Bridge Road, Westside Road, Nighthawk Lane, and Tail Feather Lane. (Nighthawk Meadows Subdivision File)
25. U.S. Highway 93 is a state operated roadway. (MDT)
26. West Bridge Road is listed as a county-maintained road. (RCSR)

27. Westside Road is listed as a county-maintained road. (RCSR)
28. Nighthawk Lane is listed as a county-maintained road. (RCSR)
29. The internal road, Tail Feather Lane will provide legal and physical access to all lots within the subdivision via a 60-foot wide public road and utility easement. (Nighthawk Meadows Preliminary Plat)
30. A proposed Road Maintenance Agreement outlines what parties are responsible for maintaining Tail Feather Lane and under what conditions. (Nighthawk Meadows Subdivision File)
31. The applicant is proposing a stop sign and road name sign at the intersection of Nighthawk Lane and Tail Feather Lane. (Nighthawk Meadows Subdivision File)
32. The road plans received preliminary approval from the Ravalli County Road and Bridge Department on August 28, 2008. (Nighthawk Meadows Subdivision File)
33. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
 - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
 - *Prior to final plat approval, evidence of a Ravalli County approved road name petition for the new road shall be provided. (Final Plat Requirement 14)*
 - *Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal. (Final Plat Requirement 16)*
 - *A Road Maintenance Agreement shall be signed, notarized, and submitted for the internal road. (Final Plat Requirement 19)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
 - *A stop sign and road name sign shall be installed at the intersection of Nighthawk Lane and Tail Feather Lane prior to final plat approval. (Condition 8)*
 - *The easement for the internal subdivision road shall be labeled as a public road and utility easement on the final plat. (Condition 10)*
 - *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Nighthawk Lane. (Condition 7)*
 - *A notification of the limitation of access shall be included in the notifications document. (Condition 1)*
 - *The applicant shall submit a final approved approach permit from the Ravalli County Road and Bridge Department prior to final plat approval. (Final Plat Requirement 13)*
 - *The Road Maintenance Agreement for the internal subdivision road shall include a provision outlining the maintenance of the trail which begins at the cul-de-sac of Tail Feather Lane and ends at the possible bus shelter near Nighthawk Lane. (Condition 17)*
 - *Tail Feather Lane shall be constructed with a paved travel surface of 20 feet and a minimum of 1-foot shoulders, for a total width of 22 feet. (Condition 19)*

Ambulance Services

34. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on July 22, 2008 and November 5, 2008 but no comments have been received to date. (Nighthawk Meadows Subdivision File)
35. At the Planning Board Public Meeting, December 3, 2008, the applicants proposed \$250 per lot to mitigate impacts on local ambulance services. (Planning Board Minutes 12/3/2008)
36. *To mitigate impacts on emergency services, the applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

37. The applicant is proposing individual wells and a community wastewater treatment facility to serve all lots. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Nighthawk Meadows Subdivision File)
38. *To mitigate impacts of the subdivision relating to water and wastewater, the following requirements shall be met:*
- *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
 - *The applicant is required to submit final engineering plans and specifications for the central sewer system with the final plat submittal. (Final Plat Requirement 15)*

Solid Waste Services

39. Bitterroot Disposal provides service to this site. (Nighthawk Meadows Subdivision File)
40. Notification letters were sent to Bitterroot Disposal requesting comments on July 22, 2008 and November 5, 2008, but no comments have been received. (Nighthawk Meadows Subdivision File)

Mail Delivery Services

41. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-8).
42. In a letter dated April 25, 2008, Tom Nuxoll, Delivery Supervisor for the Hamilton Post Office, stated that the best scenario for the US Post Office would be for the developer to place the boxes along Nighthawk Lane just prior to the internal subdivision road. (Nighthawk Meadows Subdivision File)
43. *To mitigate impacts on local services, the applicant shall provide evidence that mailboxes have been installed in accordance with the Hamilton Post Office's standards, and that the installation has been approved by the Hamilton Post Office prior to final plat approval..(Condition 12)*

Utilities

44. The proposed subdivision will be served by Northwestern Energy and Qwest Communications. (Nighthawk Meadows Subdivision File)
45. Notification letters were sent to the utility companies requesting comments on July 22, 2008 and November 5, 2008. No comments have been received by either utility company. (Nighthawk Meadows Subdivision File)
46. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)*

General

47. Growth may impact the quality of general services that Ravalli County can provide to residents. (Staff Determination)
48. The applicants have proposed \$100 per lot to Ravalli County's General Fund to mitigate impacts on County general services. (Nighthawk Meadows Subdivision File)
49. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on County General Services. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 21)

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Surface Water Features

1. Barley Creek traverses the northeast corner of the property. (Nighthawk Meadows Preliminary Plat)
2. A natural drainage area drains into a collection ditch which traverses the western boundary of the property. (Nighthawk Meadows Preliminary Plat)
3. A wetland delineation was performed by the consultant. The identified wetlands have been labeled on the preliminary plat. (Nighthawk Meadows Preliminary Plat)
4. Only the Army Corps of Engineers can legally determine whether wetlands are considered 'jurisdictional'. (USACE)
5. In order for wetlands to be considered 'jurisdictional' they need to be connected to 'waters of the United States'. (Staff Determination).
6. The term "waters of the United States" is defined as:
 - (1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 - (2) All interstate waters including interstate wetlands;
 - (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
 - (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) Which are used or could be used for industrial purpose by industries in interstate commerce;
 - (4) All impoundments of waters otherwise defined as waters of the United States under the definition;
 - (5) Tributaries of waters identified in paragraphs (a)(1)-(4) of this section;
 - (6) The territorial seas;
 - (7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1)-(6) of this section. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.
 - (8) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. (US Army Corp of Engineers)
7. It does not appear the wetlands on the property are 'jurisdictional'. (Staff Determination)
8. The applicant applied for a Section 404 permit from the US Army Corp of Engineers on October 6, 2008 (Nighthawk Meadows Subdivision File)
9. The applicant is proposing a no-build/alteration buffer on the identified riparian area around Barley Creek and in the southwest portion of the property. (Nighthawk Meadows Subdivision File)
10. *To mitigate impacts on the Natural Environment, the applicant is required to complete the following:*

- *The final plat shall show no-build/alteration zones on all areas of the preliminary plat labeled in the legend as proposed riparian area, no build/alteration buffer (NBAB), or delineated wetland/seep. Public road and utility easements, as shown on the preliminary plat, shall not be included in the no-build/alteration zones, nor shall the driveway access to Lot 6. (Condition 13)*
- *The final plat shall show a no-build/alteration zone beginning 100 feet to southwest of Barley Creek and extending to the property boundary northeast of the creek. (Condition 14)*
- *A provision explaining the no-build/alteration zones shall be included in the notifications document and protective covenants filed with the final plat. (Conditions 1 & 2)*
- *The applicant shall finish the entire stretch of the easement on Lot 3 for the wastewater treatment system with topsoil and certified weed free grass seed prior to final plat approval. (Condition 17)*
- *The applicant is required to submit the approved 404 permit from the US Army Corp of Engineers prior to final approval. (Final Plat Requirement 23)*
- *The applicant shall construct the driveway for Lot 6, as shown on the preliminary plat, prior to final plat approval. The driveway must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. (Condition 20)*

Light Pollution

11. The addition of residences in this area has the potential to increase light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark Sky Association)
12. *To mitigate the impacts of light pollution stemming from new construction, the notifications shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*

Air Quality

13. This proposed subdivision would add 6 new homes to an area of existing low density development north of Stevensville. (Nighthawk Meadows Preliminary Plat) (Site Visit)
14. The Montana Department of Environmental Quality (DEQ) has reviewed the PM_{2.5} (particulate matter <= 2.5 micron) data collected in 2007 and incorporated it into the PM_{2.5} dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. (Exhibit A-10)
15. Sources of particulate from this subdivision could include vehicles and wood-burning stoves. (Staff Determination)
16. *To mitigate impacts on air quality, the notifications shall include a recommendation that EPA-certified wood stoves should be installed to reduce air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 1)*

Vegetation

17. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed was found on the property. (Nighthawk Meadows Subdivision Application)
18. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
19. Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. Encouraging the development of native vegetation (including shrubs and trees),

while discouraging actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and unrestricted livestock grazing, would help preserve the functionality of Barley Creek and its riparian areas for fisheries, as well as protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. (Exhibit A-11)

20. According to the Montana Natural Heritage Program, the Palish Sedge and Common Sandweed were identified as a plant species of concern that could exist in the same section as the proposal. The applicant requested and received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property and because of the substantial no-build/alteration zones on the property. (Nighthawk Meadows Subdivision File)
21. There are areas on the plat identified as being a delineated wetland/seep. (Nighthawk Meadows Subdivision File and Site Visit)
22. *To mitigate impacts on natural environment, the following items will be required for final plat approval:*
 - *The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision. (Final Plat Requirement 11)*
 - *A notification of the no-build/alteration zones shall be included in the notification document. (Condition 1)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
 - *Riparian area covenants shall be included within the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Historical/Archeological Sites

23. There are no known sites of historical significance on the property. (Nighthawk Meadows Subdivision File)
24. *To ensure that any possible historical sites are preserved, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

1. The property is located in mapped elk winter range. A resident (year-round) herd of about 100 elk lives in the general area, including the river bottom. (Exhibit A-11)
2. In a letter received October 2, 2008, FWP stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-11)
3. FWP stated that wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Numerous small mammal and bird species (including waterfowl and birds of prey) can be found nearby, as well as nesting birds. (Exhibit A-11)
4. Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. Encouraging the development of native vegetation (including shrubs and trees), while discouraging actions such as grading, planting and irrigating lawns, mowing or cutting or

clearing vegetation, and unrestricted livestock grazing, would help preserve the functionality of Barley Creek and its riparian areas for fisheries, as well as protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. (Exhibit A-11)

5. According to the Montana Natural Heritage Program, the Bull Trout, Cutthroat Trout, Western Skink, Grey Wolf, Bald Eagle and Townsend's Big-Eared Bat were identified as animal species of concern that could exist in the same sections as the proposal. The applicant requested and received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property and because of the substantial no-build/alteration zones proposed. (Nighthawk Meadows Subdivision File)
6. *To mitigate impacts on wildlife, the following conditions shall be met:*
 - *The covenants shall include a living with wildlife section. (Condition 2)*
 - *The notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
 - *The no-build alteration zones will be shown on the final plat as proposed on the preliminary plat. (Conditions 13 & 14 and Final Plat Requirement 2)*
 - *The covenants shall include a provision explaining the no-build/alteration zones. (Condition 2)*
 - *A notification of the no-build/alteration zones shall be included in the notifications document. (Condition 1)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Tail Feather Lane. (Nighthawk Meadows Subdivision File)
2. In a letter dated November 23, 2008, Bob Cron, representing the Ravalli County Park Board, stated the Park Board recommends that the applicants as part of their transportation system, for the safety of children and walking adults, construct a minimum five foot wide asphalt trail along one side of Tail Feather Lane from the cul-de-sac to the bus stop. (Exhibit A-9)
3. *The requirements and conditions listed under Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on traffic safety.*
4. *Prior to final plat approval a five-foot wide, ADA compliant, trail shall be constructed within the 60-foot wide easement along Tail Feather Lane. The trail shall be shown on the final plat within the easement of Tail Feather Lane beginning at the cul-de-sac of Tail Feather Lane and ending at the possible bus shelter near Nighthawk Lane. (Condition 16)*

Emergency Vehicle Access and Response Time

5. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, Ravalli County E-911, Ravalli County Office of Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Nighthawk Meadows Subdivision File)
6. *The requirements and conditions listed under Fire Department, Public Safety, Emergency Services, and Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

7. The applicant is proposing individual wells and a community wastewater treatment facility to serve all lots. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that

they have received adequate information for local subdivision review to occur. (Nighthawk Meadows Subdivision File)

8. *To mitigate impacts of the subdivision relating to water and wastewater, the following requirements and condition shall be met:*
- The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
 - The applicant is required to submit final engineering plans and specifications for the central sewer system with the final plat submittal. (Final Plat Requirement 15)*
 - The applicant shall finish the entire stretch of the easement on Lot 3 for the wastewater treatment system with topsoil and certified weed free grass seed prior to final plat approval. (Condition 17)*

Natural and Man-Made Hazards

9. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
10. The preliminary plat and soils map indicate there are soil types on the property that are considered severe for construction of roads and/or buildings. (Nighthawk Meadows Subdivision File)
11. *To mitigate impacts on the public's health and safety, the following conditions shall be met:*
- The notifications document shall include a statement regarding radon exposure. (Condition 1)*
 - The notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
 - A notification of severe soils shall be included in the notifications document. (Condition 1)*
 - The final plat shall show no-build/alteration zones on all areas of the preliminary plat labeled in the legend as proposed riparian area, no build/alteration buffer (NBAB), or delineated wetland/seep. Public road and utility easements, as shown on the preliminary plat, shall not be included in the no-build/alteration zones, nor shall the driveway access to Lot 6. (Condition 13)*
 - The final plat shall show a no-build/alteration zone beginning 100 feet to southwest of Barley Creek and extending to the property boundary northeast of the creek. (Condition 14)*
 - A provision explaining the no-build/alteration zones shall be included in the notifications document and protective covenants filed with the final plat. (Conditions 1 & 2)*
 - The applicant is required to submit the approved 404 permit from the US Army Corp of Engineers prior to final approval. (Final Plat Requirement 23)*
 - The following statement shall be shown on the final plat: "Lots may require surface water engineering and potential hazard mitigation prior to construction". (Condition 22)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Randy Fifrick

From: Schock, Larry [lschock@mt.gov]
Sent: Monday, August 25, 2008 10:46 AM
To: Randy Fifrick
Cc: Schultz, Bill (DNR)
Subject: Nighthawk Meadows Major Subdivision.

Hi Randy,

This proposed subdivision has water rights associated with it and the average lot size is less than 5 acres. Therefore, the water rights associated with the proposed subdivision will need to be addressed according to MCA 76-3-504 (h).

Please contact me if you have any questions.

Larry A. Schock, CFM
DNRC Water Resources Division
Missoula Regional Office
(406) 721-4284
lschock@mt.gov

EXHIBIT A-1

8/27/2008

United States Department of Agriculture



Natural Resources Conservation Service
Federal Building, Room 443
10 East Babcock
Bozeman, MT 59715

RECEIVED

SEP 12 2008
150809-1009
Ravalli County Planning Dept.

Office: (406) 587-6811
Fax: (406) 587-6761

August 27, 2008

Tom Ruffatto
Chairman
Bitterroot Conservation District
1709 North First Street
Hamilton, Montana 59840

Dear Mr. Ruffatto:

This letter is in response to the Bitterroot Conservation District's request to withdraw Ravalli County Locally Important Farmland designations that were approved April 9, 2007. I concur with your request and will instruct the NRCS soils staff to eliminate that designation for soils in Ravalli County. Prime and Statewide Importance designations will still remain.

Any further questions or discussion, please feel free to contact me.

Sincerely,

Steve Becker, Acting

DAVE WHITE
State Conservationist

cc:

Henry Burkwhat, District Conservationist, NRCS, Hamilton, MT
Craig Engelhard, Assistant State Conservationist for Field Operations, NRCS, Missoula, MT
Chuck Gordon, State Soil Scientist, NRCS, Bozeman, MT
Jay Skovlin, Project Leader, NRCS, Hamilton, MT

HELPING PEOPLE HELP THE LAND

An Equal Opportunity Provider and Employer

Exhibit A-2

From: John Lavey

Sent: Wednesday, September 24, 2008 10:56 AM

To: Planning; Jennifer Degroot; Tristan Riddell; Renee Lemon; Randy Fifrick; Laura Hendrix; Vanessa Morrell

Cc: Carlotta Grandstaff; James Rokosch; Greg Chilcott; Kathleen Driscoll; Alan Thompson

Subject: Farmlands of Local Importance - Background

All,

I spoke with Julie Ralston today from the Bitterroot Conservation District, who provided me with the following background information regarding the elimination of the Farmlands of Local Importance category from the NRCS soil classifications. Without going into too much detail, the Farmlands of Local Importance soil classification was included in the overall soil assessment to provide cost-sharing incentives to landowners who were considering conservation easements. However, Congress recently passed a national farm bill that included the formulation of a new program that essentially provides the same incentive to landowners as the Local Important soils classification once did. The Environmental Quality Incentive Program (EQulP) is not site specific, unlike Farmlands of Local Importance, and therefore provides the baseline cost-sharing incentive to any landowner in the County. Because the federal government provided this blanket incentive to all landowners, there existed no reason for the BCD to continue assessing properties based on the likelihood of them having Locally Important soils. The BCD then petitioned the NRCS to drop that classification, and it did.

Additionally, Julie noted that the Locally Important farmland classification was being used by the local government to assess fees during subdivision review – against the request of the BCD. Several BCD board members expressed concerns that the classification was not intended to be used as leverage to “tax” (her words) landowners for subdividing. Julie was clear to note that this was not the primary reason for requesting elimination of the Locally Important classification.

Best,

John Lavey

Ravalli County Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
406.375.6530



Think Green -

please do not print this email unless necessary

EXHIBIT A-3

Randy Fifrick

From: Schock, Larry [lschock@mt.gov]
Sent: Monday, August 25, 2008 10:46 AM
To: Randy Fifrick
Cc: Schultz, Bill (DNR)
Subject: Nighthawk Meadows Major Subdivision.

Hi Randy,

This proposed subdivision has water rights associated with it and the average lot size is less than 5 acres. Therefore, the water rights associated with the proposed subdivision will need to be addressed according to MCA 76-3-504 (h).

Please contact me if you have any questions.

Larry A. Schock, CFM
DNRC Water Resources Division
Missoula Regional Office
(406) 721-4284
lschock@mt.gov

EXHIBIT A-4



Hamilton Rural Fire District

Post Office Box 1994 • Hamilton, MT 59840

RECEIVED

AUG 21 2008

IC-08-08-986
Ravalli County Planning Dep.

August 20, 2008

Randy Fifrick, Planner
Ravalli County Planning Department
215 S. 4th Street, Suite F
Hamilton, MT 59840

RE: Agency comment on Nighthawk Meadows Major Subdivision Proposal

The Hamilton Rural Fire District and the City of Hamilton Fire Chief have reviewed the subdivision proposal, based on the July 22, 2008 information received from Randy Fifrick in regards to the District's ability to provide fire protection services.

To mitigate the impact of the subdivision on the Hamilton Rural Fire District's ability to provide fire protection, and in keeping with our Fire Protection Standards, we request that:

- 1) All buildings are built to IRBC code, and
- 2) All roads leading to and within the subdivision are paved and constructed to County standards without any variances since access to the subdivision a concern.

If the subdivision is designed to the Fire Protection Standards of the Hamilton Rural Fire District we find no negative effects to the provision of adequate fire protection service to the subdivision.

The Hamilton Rural Fire District's approval is subject to reconsideration or withdrawal if there are other variances, if the information provided is incomplete in any way, or if there are modifications to the proposal that alter the level of fire service protection required or the ability of the Hamilton Rural Fire District to provide adequate fire service protection.

Sincerely,

Lisa Wade
Secretary

EXHIBIT A-5

00013789

USE for all
districts.

RECEIVED

SEP 13 2005

Hamilton
Rural Fire
DISTRICT

Consensus of All Valley Fire
Council.
Ravalli County Planning Dept.
TC-05-09-1707
Post Office Box 1994 Hamilton, MT 59840

FIRE PROTECTION STANDARDS

The following Fire Protection Standards were adopted on September 6, 2005.

The Hamilton Rural Fire District has established the Fire Protection Standards for proposed new subdivisions within the district. The requirements were established with consideration for the life and safety of the residents of the district, as well as the volunteer firemen who protect the district, and to mitigate possible harm to the general public.

In establishing the requirements, emphasis was given to the NFPA 1, Chapter 18, The Ravalli County Subdivision Regulations, The Ravalli County Road Department Standards, and the 1993 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire - protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the NFPA 1, Chapter 18, and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with the definitions given in the above-mentioned publications.

ACCESS ROADS

The Fire District requires that all roads and bridges meet or exceed, and are maintained to, the requirements of the NFPA 1, Chapter 18, which reads in part:

18.2.2.3.1 Required Access. Fire Apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility.

EXHIBIT A-6

18.2.2.5.1 Dimensions. Fire apparatus access roads shall have an unobstructed travel surface not less than 22-feet in width, which may included a two foot shoulder on each side of an 18-foot wide travel surface, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

18.2.2.5.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

18.2.2.5.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the fire chief. The Chief accepts the Resolution approved by the Board of County Commissioners of Ravalli County which sets the maximum acceptable road grade at ten percent (10%).

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the provisions of NFPA 1, Chapter 18, may be modified by the Fire Chief.

While not all parts of the NFPA 1 are listed above it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the NFPA 1 and Ravalli County Standards.

SPECIFIC REQUIREMENTS:

The Fire District requests that all lots (premises) meet the requirements of NFPA 1, Section 18.2.2.5.7 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above NFPA 1.

BUILDING STANDARDS

The Fire District will request that all buildings be built to IRBC codes in order to protect persons and property, and that all subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.

WATER SUPPLY

The water supply required by the NFPA 1 for one or two family dwellings, not exceeding 3,600 square feet, requires a flow rate of 1,000 G.P.M. The code does not specify the duration of flow for one and two family dwellings, however the Fire Protection Guidelines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2,500 gallons per lot, or 1,000 gallons per minute flow from municipal water systems.

In order to obtain and maintain a Class 5 ISO rating, the Hamilton Volunteer Fire Department is required to flow 500 gallons and maintain this flow for 120 minutes. By ISO standards this is usually sufficient to protect single-family dwellings with adequate spacing between structures. ISO uses the following flow rates, from their *Guide for Determination of Needed Fire Flow*, Chapter 7, when considering adequate coverage for density:

Distance Between Buildings	Needed Fire Flow
More than 100'	500 gpm
31 - 100'	750 gpm
11 - 30'	1,000 gpm
10' or less	1,500 gpm

The Hamilton Rural Fire District will use these fire flows for all subdivisions of single-family dwellings with less than 10 lots. All developments of single-family dwellings with 10 or more lots require a minimum of 1,000 gallons per minute. All commercial, industrial, or multi-family dwellings requiring higher fire flows will have to be engineered by the developer to determine needed fire flows.

Any development in the rural area, with density requiring more than the 500 gallons per minute being supplied by the Hamilton Volunteer Fire Department, will be requested to supply the difference. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision, pursuant to NFPA 1, Section 18.3.5.

The Fire District realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a voluntary contribution payment of \$500.00 (Five Hundred Dollars) per lot, in lieu of the water supply required by the NFPA 1. Payment of \$500.00 per lot will be due upon approval of the subdivision. The Fire District will use funds paid in lieu of the water supply required by the NFPA 1 to maintain or improve fire protection within the district, for the development of water supplies, or capital improvements.

EXCEPTIONS: 1. When all buildings in the subdivision are completely protected with an approved automatic sprinkler system, the above listed water supply and in lieu of payment schedule may be reduced by 50% (fifty percent). The Subdivision Covenants must state that "All residences constructed within the subdivision will be protected with an approved automatic sprinkler system." Payment for the reduced amount of \$250.00 per lot will be accepted at the time the Subdivision is approved. If at any time any residence is built within the subdivision without an approved sprinkler system, all lots will be subject to an additional \$250.00 payment, regardless of whether they have sprinklers in residences located on them or not.

Budget Per Pupil/Tax Levy Per Pupil

Year 2007-2008

School	Total Budget	Students October Count	Budget Per Pupil
Corvallis	9,246,716	1,413	6,544
Stevensville Elem	4,313,675	615	7,014
Stevensville HS	3,844,872	426	9,026
Hamilton	10,696,135	1,616	6,619
Victor	2,354,712	349	6,747
Darby	3,918,507	435	9,008
Lone Rock Elem	2,010,732	301	6,680
Florence	6,004,225	898	6,686

NOTE: 1. This does not include any federal funds or budget for federal programs. This makes these figures reflect budget and revenue only from state, county and local sources.

School	Total Tax Except Capital	Students October Count	County & State Levy*	Tax Levy Per Pupil Exc Capital	Total Capital	Per Pupil Tax Capital	Total Tax Levy Inc Capital	Tax Levy Per Pupil Inc Capital
Corvallis	1,894,368	1,413	941,511	2,007	166,126	117.57	3,002,005	2,125
Stevensville Elem	1,077,017	615	412,448	2,422	120,541	196.00	1,610,006	2,618
Stevensville HS	818,794	426	329,287	2,695			1,148,081	2,695
Hamilton	2,714,396	1,616	1,050,013	2,329	909,210	562.63	4,673,619	2,892
Victor	468,192	349	202,861	1,923	297,013	851.04	968,066	2,774
Darby	1,022,738	435	371,211	3,204		0.00	1,393,949	3,204
Lone Rock Elem	432,039	301	223,920	2,179	102,211	339.57	758,170	2,519
Florence	1,234,419	898	776,153	2,239	24,542	27.33	2,035,114	2,266

NOTE: * County levied Retirement and Transportation

BIG SKY DISTRICT
GROWTH MANAGEMENT

RECEIVED

JUN 13 2007

Ravalli County Planning Dept.



10-07-06-729

June 8, 2007

To: County Planning Office
Subject: Mail Delivery Options for New Subdivisions

The US Postal Service would like to partner with your county in preliminary planning for new subdivisions. We are looking for methods to ensure mail delivery is available to customers on day-one of occupancy in a new development. We are asking for your help to make sure we have a consistent approach across the state. Developers have approached us suggesting that mail delivery plans/requirements be included with the original applications to the county for plat approval. We think this is a wonderful idea.

Would your county be able to incorporate the following US Postal Service requirements into your plat applications?

- Centralized Delivery is the method of delivery for all subdivisions and/or developments including commercial developments.
- Developers/owners should contact their local Post Office before making plans for the location of centralized delivery. Locations for Centralized Delivery installation are determined by the US Postal Service or by mutual agreement.
- The purchase of Collection Box Units (CBU's) is the responsibility of the developer or owner(s). A current list of authorized manufacturers is attached.
- The attached outlines concrete pad specifications for CBU placement.

We have had incredible success in other Montana counties by combining planning requirements into the initial plat applications and look forward to the continued success with your county. This process has made it much easier for developers, owners, and residents to quickly and easily obtain mail delivery.

Please contact me at 406-657-5710 or at the address below with any questions you may have in regards to new growth policies of the US Postal Service within our Big Sky District.

Sincerely,

Mike Wyrwas
Growth Management Coordinator
Big Sky District

841 S 26th STREET
BILLINGS, MT 59101-9334
PHONE 406-657-5710
FAX: 406-657-5788
EMAIL MIKE.WYRWAS@USPS.GOV

EXHIBIT A-8

Randy Fifrick

From: Wyrwas, Mike - Billings, MT [mike.wyrwas@usps.gov]
Sent: Friday, June 29, 2007 9:26 AM
To: Randy Fifrick
Subject: RE: Mail Delivery Options for New Subdivisions

Randy:

We are on the same page in regards to mail delivery options for new subdivisions, with the following exceptions:

- 1) If a subdivision has less than eight (8) lots, centralized delivery may be required if the entrance to a subdivision is a private road or the local post office feels that a CBU is more efficient than a row of rural mail boxes.
- 3) CBU units do not have to be installed prior to final plat approval. They can be installed after final plat approval as long as the locations are approved by the local post office.

If situations do occur where your department does not review some building projects, please direct any questions regarding mail delivery to the local Postmaster.

Thanks for your attention to our mail delivery options.

Mike Wyrwas
Operations Programs Support

-----Original Message-----

From: Randy Fifrick [mailto:rfifrick@ravallicounty.mt.gov]
Sent: Tuesday, June 26, 2007 8:59 AM
To: Wyrwas, Mike - Billings, MT
Subject: Mail Delivery Options for New Subdivisions

Hi Mike,

I discussed our conversation on June 26th and your letter dated June 8th with the rest of the Planning Department. I just wanted to confirm that we are on the same page as to the mail delivery options for new subdivisions. Following is a list of items the Planning Department should request or require from developers:

- 1) Centralized Delivery should be required for subdivisions of eight or more lots, including commercial subdivisions.
- 2) Developers/owners should submit plans for Collection Box Units (CBUs), including the locations, to their local post office. Locations for centralized delivery installation should be approved by the US Postal Service.
- 3) The purchase of the Collection Box Units (CBU's) is the responsibility of the developer or owner. The units should be installed by the developer prior to final plat approval.

Please be advised that certain situations do not require subdivision review so the projects never come through the Planning Department. Multi-unit commercial buildings constructed on one lot (strip mall, etc) do not require subdivision review if the units are structurally attached and will be rented/lease (not sold as condominiums).

6/29/2007

November 23, 2008

Randy Fifrick
Ravalli County Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840

RECEIVED

NOV 25 2008
IC-08-11-1351
Ravalli County Planning Dept.

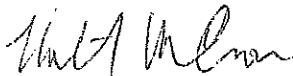
Subject : Nighthawk Meadows Major Subdivision

Dear Randy:

Nighthawk Meadows Major Subdivision plat shows 6 lots on 20.06 acres. The required parkland dedication would be about 0.7 acres. The park land dedication requirement is smaller than the desired size for a neighborhood park. The Ravalli County Park Board, therefore, concurs with the applicant's proposal to provide cash-in-lieu to meet their park obligation. We further recommend that the applicants as part of their transportation system, for the safety of children and walking adults, construct a minimum five foot wide asphalt trail along one side of Tail Feather Lane from the cul-de-sac to the bus stop.

Thank you for providing us with the plat information for comment. If you have questions, don't hesitate to contact Bob Cron at 375-2364.

Sincerely,



Robert M. Cron

For

Gary Leese
Chairperson,
Ravalli County Parks Board

EXHIBIT A-9

Randy Fifrick

From: Lea Jordan
Sent: Tuesday, April 01, 2008 1:29 PM
To: Karen Mahar; Karen Hughes; Renee Lemon
Subject: FW: Updated PM2.5 Data Review

Dear Interested Party:

The Montana Department of Environmental Quality (DEQ) has reviewed the PM2.5 (particulate matter ≤ 2.5 micron) data collected in 2007 and incorporated it into the PM2.5 dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. Attached is a document summarizing some of the issues with the revised particulate matter (PM) National Ambient Air Quality Standards (NAAQS) and PM data for several Montana communities. This document is also available on the DEQ website under the What's New section of the Air Quality Information page (<http://deq.mt.gov/AirQuality/AQinfo.asp>).

As required by the Federal Clean Air Act and based on ambient air monitoring data collected in 2004, 2005 and 2006, DEQ in December 2007 notified EPA as to which Montana communities were not complying with the PM NAAQS. EPA will review Montana's submittal and our latest air monitoring data as it becomes available before making a decision on which communities are in violation of the federal standards. In the future for those Montana communities found in violation of any NAAQS, federally enforceable control plans must be submitted to EPA for their approval. In a proactive attempt, DEQ wants to work with local air pollution control agencies, the regulated community, and other interested parties to identify and control sources of particulate matter air pollution. DEQ representatives are willing to meet with interested parties in their communities at mutually agreed upon dates and times. In addition to the PM NAAQS discussion, other air quality topics of interest could be discussed. If interested, please contact myself or Bob Habeck (bhabeck@mt.gov or 444-7305) to schedule a meeting.

As part of the annual air quality data review process, DEQ will hold a public meeting to discuss the future direction of Montana's ambient air monitoring network. That meeting will be held on Wednesday, 19 March 2008 from 8:30 A.M. to 12:30 P.M. The meeting location is the Middle Commission Room in the Fish, Wildlife & Parks building at the 1420 East 6th Avenue in Helena. If you need further directions or other information, please contact me.

Thank you for your interest in protecting Montana's clean air resource.

Robert K. Jeffrey
Air Quality Specialist
Air Resources Management Bureau
MT Dept. of Environmental Quality
(406) 444-5280; fax 444-1499
Email: rjeffrey@mt.gov

EXHIBIT A-10

11/14/2008



Montana Fish, Wildlife & Parks

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3101
406-542-5500
Fax 406-542-5529
October 2, 2008

Randy Fifrick, Planner
Ravalli county Planning Department
215 S. 4th St., Ste. F
Hamilton, MT 59840

Reference: Nighthawk Meadows--Proposed major (6 lots on 20.1 acres; mostly NE4 Sec 34, T6N, R21W; Mountain Magic, LLC) subdivision, ~1¼ mile W of Hamilton

Dear Mr. Fifrick:

We have reviewed the preliminary plat (dated 6-9-08) for this proposed subdivision. Earlier this year we also reviewed this subdivision's concept plan (dated 9-10-07) at the request of the developer's representative, Chris Cobb-Taggart (Professional Consultants, Inc; Missoula). We notice changes between the concept plan and the preliminary plat, including changes in lot lines and sizes. Following are the comments we emailed (2 emails, 29 Feb 2008) to Ms. Cobb-Taggart, along with our *updated comments based on reviewing the preliminary plat*.

Wildlife--The property is located in mapped elk winter range. A resident (year-round) herd of about 100 elk lives in the general area, including the river bottom. Given the subdivided and developed nature of the surrounding landscape, and the relatively small acreage involved in this proposal, we see no effective way to mitigate the effects of subdivision with a change in design or density. The greatest concern would be cumulative impacts of increased traffic and human occupation surrounding the remnant elk habitat that is located between the subject property and the river.

Additionally:

1. We notice that Barley Creek (shown on USGS topo map) is shown as a "ditch" on the concept plan, and we wonder why? *We appreciate that Barley Creek (which flows northwest to southeast, through the northeast corner of Lot 2) has now been labeled on the plat.*
2. We appreciate the proposed 100-foot offset back from the stream [Barley Creek], and wonder if this is being proposed as no build/alteration? *We appreciate that the area adjacent to the stream is now labeled on the plat as "proposed riparian area as no build/alteration zone" (NBAZ). But we note that the NBAZ has been reduced from 100 feet from the stream to a varying width of approximately 30 to 45 feet. We recommend increasing this NBAZ to provide a greater buffer. Based on the assumption that Barley Creek is not an intermittent stream, we recommend designating a 75-foot wide "no build/no alteration" buffer (NBNAB) outward from each high water mark along any portions of Barley Creek that flow through this property, and that this NBNAB be labeled on the plat. No building or alteration would be allowed in this buffer zone.*

EXHIBIT A-11

Designate an additional 25-foot setback outward from the NBNAB, and designate and label this on the plat. Normal activities--except construction of permanent structures--would be allowed within this setback.

3. *We also recommend renaming the NBAZ for the southwestern riparian/wetland area to NBNAB, for consistency in terminology with the NBNAB for Barley Creek.*
4. *We would recommend riparian use covenants for the stream and its setback. We have included our recommended version for Barley Creek and the southwestern riparian (wetland?) area.*
5. *We would recommend living w/ wildlife covenants appropriate to this site. We have included our recommended version for this location.*

Thank you for providing the opportunity for FWP to comment on this proposal.

Sincerely,

/s/ Mack Long

Mack Long
Regional Supervisor

ML/sr

C: Chris Cobb-Taggart, PCI, PO Box 1750, Missoula, MT 59806-1750

Riparian Area Covenants and Wildlife Covenants for Nighthawk Meadows (Mountain Magic, LLC) major subdivision, recommended by Montana Fish, Wildlife & Park; Missoula; October 2, 2008

Section __: Covenants for use of Barley Creek and the southwestern riparian area portion of Nighthawk Meadows.

Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and unrestricted livestock grazing--would help preserve the functionality of the creek and its riparian areas for fisheries, as well as protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. The goal of the “no build/no alteration buffer” (NBNA) and the building setback along Barley Creek and the NBNA for the “natural drainage area” in the southwestern portion of the subdivision (hereafter, “southwestern riparian area”) is to protect the creek and the riparian areas, as well as fisheries and wildlife. The following covenants (restrictions) are designed to help avoid damage to creek and its riparian areas, as well as possibly enhancing the natural functioning of the area.

There is a 75-foot *buffer* (“no build/no alteration buffer” or NBNA) outward from each high water mark of Barley Creek. The creek and this 75-foot buffer are “no build/no alteration” areas, hereafter referred to collectively as the NBNA for Barley Creek. Additionally, there is a 25-foot *no-build setback*, measured outward from each buffer. Also, the southwestern riparian area of Nighthawk Meadows subdivision is designated as a NBNA.

New permanent structures may not be built in either the 75-foot buffer (NBNA) or the 25-foot setback from Barley Creek (i.e., no new structures may be constructed within 100-feet of the high water mark outward from each side of Barley Creek), nor within the NBNA for the southwestern wetland area.

Additionally, the following restrictions apply to those portions of the creek and its NBNA and the southwestern riparian area NBNA that are within this subdivision:

1. No building, no new roads or alteration of the NBNA is allowed.
2. No motorized use. Only foot traffic is allowed in the NBNA.
3. It is illegal to modify the streambed or streambanks of a perennial stream without a “310” permit (Montana Natural Streambed and Land Preservation Act). Certain other actions near Barley Creek may require state and/or federal permit(s). Contact the Ravalli County Conservation District office in Hamilton for further information.
4. Keep livestock out of stream and NBNA. Develop off-stream watering facilities (e.g., water troughs) for livestock, and use fences if necessary to keep livestock from trampling and grazing riparian vegetation. (See later covenant item for wildlife friendly fence guidelines.)
5. Development of off-channel watering facilities cannot include water from Barley Creek if the lot(s) does not have valid water rights to the stream. If no water rights exist for, or have not been transferred to the property, then water cannot be diverted from the creek for any use. Residents should consult with the Montana Department of Natural Resources for questions on water rights.

6. Wildlife-friendly fence guidelines. a) For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18" off the ground; top of the top rail no higher than 42" off the ground; b) For wire fences: use smooth wire, no more than 3 wires, top wire no higher than 42" off the ground and bottom wire at least 18" from the ground. These designs allow calf elk, fawn deer and other wildlife to crawl under the fencing, while allowing adult elk and deer to jump the fence.
7. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of habitat and contributes significantly to overall slope stability, and dead trees function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
8. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
9. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
10. In summary, allow riparian areas--Barley Creek and its buffer zones and the southwestern riparian area--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
11. These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Section __: Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site at <http://fwp.mt.gov>.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on “all-species electric fencing” designed to exclude wildlife from gardens and/or home areas, as well as a brochure for fence building with wildlife in mind.)
- c. All **garbage** should be stored in bear-resistant containers or indoors. If stored indoors, garbage may not be taken outdoors until the morning of garbage pick-up and containers must be brought back in that evening. Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash storage sites. (If home sites are occupied seasonally, all garbage from the home and other buildings must be removed from the property before closing up for the season.)
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in “an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer can attract mountain lions to the area.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a

freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.

- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.
- m. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

RECEIVED

OCT 15 2007

IC-07-10-1305
Ravalli County Planning Dept.



RECEIVED

OCT 15 2007

Ravalli County Commissioners

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October 15, 2007

James Rokosch, Chair
Ravalli County Commissioners
215 South 4th Street, Suite A
Hamilton, MT 59840

Dear Commissioner Rokosch,

In the last meeting of the Ravalli County Educational Transportation Committee a discussion was held concerning the new sub-divisions in Ravalli County. There was a great concern for the safety of the children who attend Ravalli County schools and who live with the varying conditions in the variety of subdivisions in the county.

Therefore, the group unanimously adopted a resolution requesting the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and a possible turnout, or turn around if appropriate, at each subdivision entrance that is off the county owned and maintained road.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernie Jean".

Ernie Jean, EdD
County Superintendent

EXHIBIT A-12

Hamilton School District

217 Daly Avenue
Hamilton, MT 59840



voice: 406-363-2280 x500
fax: 406-363-1843

Ravalli County Planning Department
215 South 4th Street – Suite F
Hamilton, MT 59840

RECEIVED

NOV 14 2008
IC-08-11-1326
Ravalli County Planning Dep.

RE: Nighthawk Meadows Major Subdivision

Dear Mr. Fifrick:

Your letter to the Hamilton School District dated November 6, 2008, requested comments about the above stated subdivision.

The District wants to have on record that it will not provide transportation services to any students who do not live on county maintained roads and/or do not have an adequate bus turn around area.

For the Nighthawk Meadows subdivision, the District would like the developer to insure that the children are provided with a safe area that is also out of the weather to wait for the bus at the intersection of Nighthawk Lane and Tail Feather Lane.

The Hamilton School District has not conducted an impact fee study for our district, but we would like to request that the County assess a mitigation fee that they feel is appropriate for this project on behalf of the district.

Thank you for your time and consideration.

Sincerely,

Mr. Phillip D. Santee, Superintendent
Hamilton School District #3

PDS/cb

EXHIBIT A-13

OVERVIEW

1. Introduction



RAVALLI COUNTY FIRE COUNCIL
PO BOX 410267
PINESDALE, MT 59841

September 25, 2008

Ravalli County Planning Dept.
C/O John Lavey, Tristen Riddell
215 South 4th Street, Suite "F"
Hamilton, Montana 59840

Dear John and Tristen,

Please consider this letter as a directive from the Ravalli County Fire Council as to our interpretation of the road standards to be used for all fire districts within Ravalli County.

It is our interpretation that the standard road width will be 20 feet of road surface, with a minimum of 1-foot shoulders, which shall be designed and maintained to support the imposed loads of fire apparatus. The primary reasoning behind our decision is at an incident; on-coming fire trucks can safely pass each other without going on the shoulder of the road. We understand that the current subdivision regulations in Ravalli County only provide for an 18-foot surface, so we are requesting that this letter act as an amendment to such regulation until such time that the subdivision regulations of Ravalli County can be changed to meet the needs of the fire districts of Ravalli County.

Thank you for your timely consideration of this request. Any questions relating to this matter can be directed to myself, as Fire Warden, at 363-1231.

Sincerely,

Ronald J. Ehli
Ravalli County Fire Warden

EXHIBIT A-14

20 November 2008

RECEIVED
DEC 03 2008
TC-08-12-1370
Ravalli County Planning Dept.

County of Ravalli
Planning Department
215 South 4th Street; Suite F
Hamilton, MT 59840

Attention: Randy Fifrick

Following are our comments/concerns regarding the proposed Nighthawk Meadows Subdivision:

1. Effects on Agriculture: *We have a no-spray naturally reseeding pasture that we use for organically raised beef. We are also part of the weed management area that we invest considerable time and resources to maintain. We are very concerned that a subdivision will not maintain a weed management attitude and will negatively impact our property.*
2. Effects on Agricultural Water-User Facilities: *Mountain Magic has designated water rights for this property. How will they be distributed to the 6 lots and how will they be enforced? Water rights for Sawdust Creek have long been an issue of dispute and need to be addressed with the potential and current residents to avoid unnecessary disputes.*
3. Effects on Local Services: *Increased traffic will result in additional road maintenance. Maintenance from the county is currently minimal, at best.*
4. Effects on Natural Environment: *Negative – Who will provide maintenance for the proposed holding pond? Will a property management group be involved? For how long? What effect will the proposed sewer system have on the environment? Will there be stagnant water, insects, seepage into the ground water, any effect on local area wells, etc.? Will there be any control over noise and outside lighting? Also, what covenants will be enforced on building standards, size of homes and buildings and their height. We do not want to have our beautiful view of the Sapphire Mountains destroyed.*
5. Effects on Wildlife and Wildlife Habitat: *Will be significant to the white tail deer, elk, moose, turkeys and pheasants that naturally habitat this area.*
6. Effects on Public Health and Safety: *Additional traffic will impact the traffic on Nighthawk Lane. NightHawk Lane is a narrow two lane road that may not hold up to additional traffic and the additional traffic will impact the safety of the wildlife in the area and adjoining properties.*

ATTACHMENT A

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Additional Comments: Years ago area residents attempted to have this area restricted to 10 acre parcels. It is a shame that the County has apparently sided with the developers. We have one of the last best places to live; with the wildlife, serenity and quiet.... Why do we want to change that?

Thank you for your consideration.

M.E. and Victoria Hayes – 185 Westside Road
(Administrator for R. Mussil, 223 Westside Road)

m. e. Hayes *Victoria Hayes*

Jo Leesman and Rich Gillman – 186 Nighthawk Lane

Jo Leesman *Rich Gillman*

